IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Gupta et al.
Serial No.	:	09/747,645
Filed	:	December 22, 2000
For	:	METHOD AND APPARATUS FOR MEASURING PRODUCT SHIPMENT PROCESS CAPABILITY
Group Art No.	:	3623
Examiner	:	Romain Jeanty

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSIVE TO THE NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF MAILED JANUARY 27, 2009

Dear Sir:

Responsive to the Notice of Non-Compliant Appeal Brief mailed January 27, 2009, Applicant requests consideration of the amendment and remarks set forth below:

In the Appeal Brief. *Under Section 5, SUMMARY OF CLAIMED SUBJECT MATTER, please include the following:*

Claim 27 calls for a computer readable storage medium having a computer program that, when executed by a processor (10), causes the processor (10) to acquire, calculate, establish, and determine a variety of elements of the claim. That is, the processor (10) is caused to acquire (46, 44) a requested delivery date and a shipped date of a number of customer orders from a database. *Id.* at ¶ [0027]; Figs. 1-2, 4-5. A shipment metric mean value and standard deviation are calculated (58, 62) from the dates. *Id.* at ¶¶ [0027], [0032]; Fig. 2. An upper specification limit and a lower specification limit are established (64). *Id.* at ¶¶ [0029], [0033], [0036], [0037]; Fig. 2. A first Z value is calculated (64) by subtracting the mean value from the upper specification limit and dividing by the standard deviation. *Id.* at ¶ [0029], [0037]. A second Z value is calculated (64) by subtracting the lower specification limit from the mean value and dividing by the standard deviation. *Id.* The processor (10) is also caused to determine a long term process capability value by selecting a minimum of the first Z value and the second Z value. *Id.*

REMARKS

According to the Notification of Non-Compliant Appeal Brief, the Appeal Brief filed on March 10, 2008 was non-compliant because "the brief did not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal." *Notification of Non-Compliant Appeal Brief*, January 27, 2009, pg. 2. In particular, the "Summary of Claimed Subject Matter" found in Section 5 did "not separately map independent claim 27 to the specification." *Order Returning Undocketed Appeal to Examiner,* January 9, 2009, pg. 2. An entire new brief is not required because the Appeal Brief only lacked a summary of claim 27. *See* MPEP § 1205.03.

In accordance with MPEP § 1205.03, Appellant amends Section 5 to include a summary of claim 27 with references to the Specification by paragraph number where applicable.

Please find attached a summary of claim 27, as identified above, with references to the Specification by paragraph number where applicable. Appellant appreciates consideration of these Amendments and Remarks and cordially invites the Examiner or the Patent Appeals Specialist to call the undersigned, should any matters be considered unresolved.

Respectfully submitted,

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